

**Amendments to the Local Rules of Court
of the U.S. District Court for the Middle District of Pennsylvania
to become effective December 1, 2009**

Note: New or amended text is redlined and deleted text is stricken.

LR 4.1 Service of Process.

Plaintiff or plaintiff's attorney shall be responsible for prompt service of the summons and a copy of the complaint as provided in Fed.R.Civ.P.4. Service shall be made by anyone who is not a party and is not less than 18 years of age. In order that a scheduling conference as required by Fed.R.Civ.P.16(b) can be arranged promptly, immediate service of process should be effected and an affidavit of such service shall be filed within ~~ten (10)~~ **fourteen (14)** days thereafter. Where the plaintiff is the United States, an agent or instrumentality thereof, service shall be pursuant to 28 U.S.C. § 566(c).

LR 7.1 ~~Pretrial~~ Motions to be Written.

~~All motions filed prior to trial~~ **A motion** must be written, and shall contain a certification by counsel for the movant that he or she has sought concurrence in the motion from each party, and that it has been either given or denied. No concurrence need be sought in *pro se* prisoner cases. A certificate of nonconcurrence does not eliminate the need for counsel to comply with Local Rule 26.3 relating to conferences between counsel in all discovery motions directed toward a resolution of the motion. Every motion shall be accompanied by a form of order which, if ~~approved~~ **entered** by the court, would grant the relief sought in the motion.

LR 7.2 Reserved.

LR 7.3 Exhibits and Other Documents Substantiating ~~Pretrial~~ Motions.

When allegations of fact are relied upon in support of a motion, all pertinent affidavits, transcripts of ~~depositions~~, and other documents must be filed simultaneously with the motion ~~whenever practicable. In any event, such supporting documents must be filed within ten (10) days after the motion has been filed, unless otherwise ordered by the court.~~ All supporting exhibits and documents shall be filed and identified in the manner required by **comply with Local Rule 5.1(f)**.

LR 7.4 Motions for Summary Judgment.

For local rule regarding the filing of Motions for Summary Judgment, see LR 56.1.

LR 7.5 Submission of Briefs Supporting ~~Pretrial~~ Motions.

Within ~~ten (10)~~ **fourteen (14)** days after the filing of any motion ~~filed prior to trial~~, the party filing the ~~same~~ **motion** shall file a brief in support of the motion. If the motion seeks a protective order, a supporting brief shall be filed with the motion. ~~Unless otherwise ordered by the court, if a supporting legal briefs are~~ **is** not filed within the time provided in this rule ~~such~~ **the** motion shall be deemed to be withdrawn. **A** ~~B~~briefs shall not be required: (a) In support of a motion for enlargement of time if the reasons for the request are fully stated in the motion, (b) In support of any motion ~~or a stipulation~~ which has concurrence

of all parties, and the reasons for the motion or the stipulation and the relief sought are fully stated therein, or (c) In support of a motion for appointment of counsel.

LR 7.6 Submission of Briefs or Memoranda Opposing Pretrial Motions.

Any party opposing any motion shall file a responsive brief in opposition, together with any opposing affidavits, deposition transcripts or other documents, within ~~fifteen (15)~~ fourteen (14) days after service of the movant's brief, or, if a brief in support of the motion is not required under these rules, within ~~five (5)~~ seven (7) days after service of the motion. Any respondent party who fails to comply with this rule shall be deemed not to oppose such motion. Nothing in this rule shall be construed to limit the authority of the court to grant any motion before expiration of the prescribed period for filing a responsive brief in opposition.

LR 7.7 Pretrial Reply Briefs or Memoranda.

A brief in reply to matters argued in respondent's a brief in opposition may be filed by the moving party within ~~ten (10)~~ fourteen (14) days after service of the respondent's brief in opposition. No further briefs may be filed without leave of court.

LR 7.8 Contents and Length of Pretrial Briefs.

(a) Contents of Briefs.

Briefs shall contain complete citations of all authorities relied upon, including whenever practicable, citations both to official and unofficial reports. No brief may incorporate by reference all or any portion of any other brief. A copy of any unpublished opinion which is cited must accompany the brief as an attachment. The brief of the moving party shall contain a procedural history of the case, a statement of facts, a statement of questions involved, and argument. The brief of the opposing party may contain a counter statement of the facts and of the questions involved and a counter history of the case. If counter statements of facts or questions involved are not filed, the statements of the moving party will be deemed adopted. The brief of each party, if more than fifteen (15) pages in length, shall contain a table of contents, with page references, and table of citations of the cases, statutes and other authorities referred to therein, with references to the pages at which they are cited. A brief may address only one motion, except in the case of cross motions for summary judgment.

(b) Length of Briefs.

(1) Unless the requirements of Local Rule 7.8 (b)(2) and (3) are met, no brief shall exceed fifteen (15) pages in length.

(2) A brief may exceed fifteen (15) pages so long as it does not exceed 5,000 words. If a brief is filed in accordance with this subsection, counsel, or an unrepresented party, must include a certificate (subject to Fed. R. Civ. P. 11) that the brief complies with the word-count limit described in this subsection. The person preparing the certificate may rely on the word count feature of the word-processing system used to prepare the brief. The certificate must state the actual number of words in the brief.

(3) No brief exceeding the limits described in this rule may be filed without prior authorization. Any motion seeking such authorization shall specify the length of the brief requested and shall be filed at least two (2) working days before the brief is due.

(c) Length of Briefs in Appeals from Bankruptcy Court.

Unless otherwise ordered by the court, the provisions of subparagraph (b) of this rule relating to the length of briefs shall not apply to matters on appeal to the district court from the bankruptcy court.

LR 7.9 Oral Arguments on Pretrial Motions.

Promptly upon the expiration of the time for filing of all briefs in support of or in opposition to pretrial ~~a~~ motions, the judge to whom the action has been assigned may order oral argument at such time and place as the judge shall direct, either in open court or in chambers. The judge, in his or her discretion, may grant oral argument *sua sponte* or at the request of either or both parties.

LR 7.10 Motions for Reconsideration or Reargument.

Any motion for reconsideration or reargument must be accompanied by a supporting brief and filed within ~~ten (10)~~ **fourteen (14)** days after the entry of the judgment, order or decree concerned. ~~The time constraints and assumptions set forth in Local Rules 7.6 and 7.7 shall apply to briefs in opposition to motions for reconsideration and reply briefs.~~

~~LR 7.20 Post-trial Motions to be Written.~~

~~— All motions after trial must be written and shall contain a certification by counsel for the movant that he or she has sought concurrence in the motion from each party and that it has been either given or denied. Every motion shall be accompanied by a form order which, if approved by the court, would grant the relief sought in the motion.~~

~~LR 7.21 Reserved.~~

~~LR 7.22 Exhibits and Other Documents Supporting Post-trial Motions.~~

~~— When allegations of fact not of record are relied upon in support of a motion, all pertinent affidavits, transcripts of depositions, and other documents must be filed simultaneously with the motion whenever practicable. In any event, such supporting documents must be filed within fifteen (15) days after the motion has been filed, unless otherwise ordered by the court. Affidavits in support of a motion for new trial shall be served with the motion as required by Fed.R.Civ.P.59(c). All other supporting exhibits and documents shall be filed and identified in the manner required by LR 5.1 (f).~~

~~LR 7.23 Grounds for New Trial.~~

~~— A motion for a new trial must state with particularity any trial errors alleged as grounds for a new trial.~~

~~LR 7.24 Decision Without Transcript of Testimony.~~

~~— Unless for good cause shown the court orders otherwise, a post-trial motion may be decided without the transcript of testimony.~~

~~LR 7.30 Post-trial Briefs of Moving Party.~~

~~— The brief of the moving party shall be filed within thirty (30) days after the filing of the motion, unless upon motion and for good cause shown the court directs otherwise. Unless otherwise ordered by the court, if a supporting brief is not filed within the time provided in~~

~~this rule, such motion shall be deemed to be withdrawn.~~

~~LR 7.31 Post-trial Briefs of Respondent.~~

~~—The brief of the respondent shall be filed within twenty (20) days after service of the brief of the moving party. Unless otherwise ordered by the court, if a responsive legal brief is not filed within the time provided in this rule, the respondent shall be deemed not to oppose such motion.~~

~~LR 7.32 Post-trial Reply Briefs.~~

~~—The moving party may file a reply brief within ten (10) days after service of the brief of the respondent. No further briefs may be filed without leave of court.~~

~~LR 7.33 Conformity to Pretrial Procedure.~~

~~—The procedure provided in Local Rule 7.9 shall be applicable to post-trial motions, and the content and length of briefs shall be governed by the provisions of Local Rules 7.8.~~

LR 16.3 Conferences of Attorneys.

(a) In each civil action, lead counsel for each party shall confer at least ~~ten (10)~~ **fourteen (14)** days prior to the initial case management conference to consider the matters set forth on the court's case management form, as set forth in Appendix A to these rules, and shall thereafter file a concise joint case management statement consisting of the completed case management form. It shall be the duty of counsel for the plaintiff to take the initiative in holding such a conference and in assuring the completion and filing of the joint case management plan form. The filing of this form satisfies the requirement of a proposed discovery plan under Fed.R.Civ.P. 26(f). The joint case management form shall be filed ~~five (5)~~ **seven (7)** days prior to the case management conference. The information in the case management form will not be deemed an admission by any party.

(b) At least ~~ten (10)~~ **fourteen (14)** calendar days prior to the final pretrial conference, lead counsel for each of the parties shall meet and confer for the purpose of attempting to enter into agreements with respect to the subjects referred to in Fed.R.Civ.P.16 and to discuss settlement of the action. It shall be the duty of counsel for the plaintiff to take the initiative in holding such a conference and initiating discussion concerning settlement and to report to the court at the final pretrial conference the results of efforts to arrive at settlement. At the conference all exhibits which any party intends to introduce at trial whether on the case in chief or in rebuttal shall be examined, numbered and listed. Only exhibits so listed shall be offered in evidence at the trial, except for good cause shown. Counsel shall attempt in good faith to agree as to the authenticity and admissibility of such exhibits insofar as possible and note an objection to any not so agreed upon. Counsel shall attempt in good faith to agree insofar as possible upon a comprehensive written statement of all undisputed facts which statement shall be included in plaintiff's pretrial memorandum. Lists of potential witnesses with their addresses shall be exchanged.

LR 16.6 Pretrial Memorandum.

Each party to a civil action shall file a pretrial memorandum and serve a copy on all other parties, at least ~~five (5)~~ **seven (7)** days prior to the final pretrial conference, containing the information requested, and in the form set forth in Appendix B to these rules.

The instructions contained in said official form of pretrial memorandum are a part of these rules.

LR 16.8.7 Duties of Participants at the Mediation Session.

(a) Parties. All named parties and their counsel are required to attend the mediation session, participate in good faith and be prepared to discuss all liability issues, all defenses and all possible remedies, including monetary and equitable relief. Those in attendance shall possess complete settlement authority, independent of any approval process or supervision, except as set forth in subparagraphs (1) and (2) below. Unless attendance is excused under paragraph (d), willful failure to attend the mediation session will be reported by the mediator to the court and may result in the imposition of sanctions.

(1) Corporation or Other Entity. A party other than a natural person (e.g. a corporation or association) satisfies this attendance requirement if represented by a person (other than outside counsel) who either has authority to settle or who is knowledgeable about the facts of the case, the entity's position, and the policies and procedures under which the entity decides whether to accept proposed settlements.

(2) Government Entity. A unit or agency of government satisfies this attendance requirement if represented by a person who either has authority to settle or who is knowledgeable about the facts of the case, the government unit's position, and the policies and procedures under which the governmental unit decides whether to accept proposed settlements. If the action is brought by or defended by the government on behalf of one or more individuals, at least one such individual also shall attend.

(b) Counsel. Each party shall be accompanied at the mediation session by the attorney who will be primarily responsible for handling the trial of the matter.

(c) Insurers. Insurer representatives are required to attend in person unless excused under paragraph (d), below, if their agreement would be necessary to achieve a settlement. Insurer representatives shall possess complete settlement authority, independent of any approval process or supervision.

(d) Request to be Excused. A person who is required to attend a mediation session may be excused from attending in person only after a showing that personal attendance would impose an extraordinary or otherwise unjustifiable hardship. A person seeking to be excused must submit, no fewer than ~~ten (10)~~ **fourteen (14)** days before the date set for the mediation, a written request to the mediator, simultaneously copying all counsel. The written request shall set forth all considerations that support the request and shall indicate whether the other party or parties join in or object to the request. A proposed order prepared for the signature of the Judge shall be submitted to the mediator with the request. The mediator shall promptly consider the request and shall submit the proposed order to the Judge with a recommendation that the request be granted or denied. In the absence of an order excusing attendance, the person must attend.

LR 26.1 Duty to Investigate and Disclose.

(a) Prior to the conference of attorneys required by Local Rule 16.3, counsel for the parties shall inquire into the computerized information-management systems used by their clients so that they are knowledgeable about the operation of those systems, including how

information is stored and how it can be retrieved. At the same time, counsel shall inform their clients of the ~~need~~ **duty** to preserve **electronically stored** information ~~stored in computerized information-management systems so that information relevant to the claims or defenses in the case is not in any way destroyed.~~

(b) In making the disclosures required by Fed. R. Civ. P. 26(a)(1), the parties must disclose **electronically stored** information ~~and files stored within their computerized information-management systems~~ to the same extent they would be required to disclose information, files or documents stored by any other means.

(c) During the conference of attorneys required by Local Rule 16.3(a), in addition to those matters described in that rule, counsel shall discuss and seek to reach agreement on the following:

(1) Computer-based Electronically stored information in general. Counsel shall attempt to agree on steps the parties will take to segregate and preserve ~~computer-based~~ **electronically stored** information in order to avoid accusations of spoliation. ~~Counsel shall also attempt to agree on the steps the parties will take to comply with the decisions and rules requiring the preservation of potentially relevant information after litigation has commenced.~~

(2) E-mail information. Counsel shall attempt to agree on the scope of e-mail discovery and e-mail search protocol.

(3) Deleted information. Counsel shall attempt to agree on whether deleted information still exists, the extent to which restoration of deleted information is needed, and who will bear the costs of restoration.

(4) Back-up and archival data. Counsel shall attempt to agree on whether back-up and archival data exists, the extent to which back-up and archival data is needed, and who will bear the cost of obtaining such data.

(5) Costs. Counsel shall discuss the anticipated scope, cost, and time required for disclosure or production of data beyond what is reasonably available to the parties in the ordinary course of business, and shall attempt to agree on the allocation of costs.

(6) Format and media. Counsel shall discuss and attempt to agree on the format and media to be used in the production of **electronically stored** information.

(d) In the event the parties cannot agree on the matters described in subparagraph (c), counsel shall note the issue of disagreement in Section 10 ("Other Matters") of the joint case management plan so that the court may, if appropriate, address the matter during the case-management conference.

LR 41.1 Dismissal of Action.

Any action may be dismissed by the court at any time no proceedings appear to have been taken for one full calendar year. At least ~~thirty (30)~~ **twenty eight (28)** days written notice of such intended dismissal shall be given to all parties by the judge to whom such action is assigned, or by the clerk, and the action shall thereafter be dismissed, unless for good cause it shall be shown that the action should not be dismissed. Dismissal under this rule shall be in addition to and not in lieu of action which may be taken under Fed.R.Civ.P.41.

LR 54.3 Bills of Costs.

Bills of costs, unless an extension is granted, shall be filed no later than thirty (30) days after entry of final judgment. All bills of costs requiring taxation shall be taxed by the clerk, subject to an appeal to the court. Any party appellant shall, within five (5) days of such taxation, file a written specification of the items objected to and the grounds of objection. A copy of the specifications and objections shall be served on the opposite party or that party's attorney within ~~five (5)~~ **seven (7)** days. An appeal may be dismissed for non-compliance with the appeal requirements.

LR 54.5 Notice of Taxation of Costs.

Any party requesting taxation of costs by the clerk shall give the clerk and all other parties ~~five (5)~~ **seven (7)** days written notice of such request. The clerk shall fix the time for taxation and notify the parties or their counsel.

LR 54.6 Payment of Clerk's or Marshal's Costs.

The clerk shall not enter an order of dismissal or of satisfaction of judgment until the clerk's and marshal's costs have been paid. The clerk, in cases settled by parties without payment of costs, may have an order on one or more of the parties to pay the costs. Upon failure to pay costs within ~~ten (10)~~ **fourteen (14)** days, or at such time as the court may otherwise direct, the clerk may issue execution for recovery of costs.

LR 58.1 Marshal's Deeds.

Marshal's deeds for property sold in execution shall not be acknowledged or delivered until ~~ten (10)~~ **fourteen (14)** days after the date of the execution sale, during which time any objections to any sale or to the right of the purchaser, as a lien creditor, to apply a lien in satisfaction of a bid shall be filed.

~~LR 59.1 New Trials; Amendment of Judgments~~

~~—For local rules regarding post trial motions, see LR 7.10, et seq.~~

LR 67.1 Investment of Registry Funds Pending Litigation.

(a) Funds regularly deposited in the registry of the court such as bail, removal bonds and civil garnishments are placed in the Treasury of the United States and accrue no interest.

(b) Counsel or parties who wish to deposit funds in pending litigation may, by leave of court, have such funds invested in interest bearing accounts, certificates of deposit or treasury bills. Any order directing investment will include the following: (1) The amount to be invested; (2) The name of the bank or financial institution at a location where the clerk has an office in which the funds are to be invested; (3) The type of account or instrument in which the funds are to be invested; (4) The terms of investment to include reinvestment instructions on short term instruments, any time limits on investment and other material information required by a particular case.

(c) Counsel or parties obtaining an order as described in paragraph (b) of this rule shall cause a copy to be served personally upon the clerk or the chief deputy and the financial deputy at the district office or on the deputy in charge at a division office.

(d) The clerk shall take all reasonable steps to deposit funds at interest within, but not more than, ~~fifteen (15)~~ **fourteen (14)** days after having been served with a copy of the

order.

(e) Counsel or parties will have the responsibility, ~~fifteen (15)~~ **fourteen (14)** days after service of the order as provided by paragraph (c) of this rule, to verify with the clerk that the funds have been invested as ordered.

(f) Failure to personally serve as specified in paragraph (c) above, or failure to verify that the funds were actually invested as provided by part (e) of this rule shall release the clerk and deputy clerks from any liability for the loss of interest which could have been earned on the funds.

(g) A service fee shall be charged by the clerk for the investment of registry funds in accordance with the fee schedule prescribed by the Judicial Conference pursuant to 28 U.S.C. § 1914, except as otherwise provided by law.

LR 72.2 Appeals from Non-Dispositive Orders of Magistrate Judges.

Any party may appeal from a magistrate judge's order determining a non-dispositive pretrial motion or matter in any civil or criminal case in which the magistrate judge is not the presiding judge of the case, within ~~ten (10)~~ **fourteen (14)** days after issuance of the magistrate judge's order, unless a different time is prescribed by the magistrate judge or a judge. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, a written statement of appeal which shall specifically designate the order, or part thereof, appealed from and the basis for any objection thereto. At the time the appeal is filed, the appellant shall also file a brief addressed to the issue raised by the objection to the order or part appealed from. Any party opposing the appeal shall file a responsive brief within ~~ten (10)~~ **fourteen (14)** days after service of the appellant's brief. A brief in reply may be filed within seven (7) days after service of the opposing party's brief. A judge of the court shall consider the appeal and shall set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law. The judge may also reconsider *sua sponte* any matter determined by a magistrate judge under this rule.

LR 72.3 Review of Reports and Recommendations of Magistrate Judges Addressing Case Dispositive Motions.

Any party may object to a magistrate judge's proposed findings, recommendations or report addressing a motion or matter described in 28 U.S.C. § 636 (b)(1)(B) or making a recommendation for the disposition of a prisoner case or a habeas corpus petition within ~~ten (10)~~ **fourteen (14)** days after being served with a copy thereof. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. The briefing requirements set forth in Local Rule 72.2 shall apply. A judge shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.

LR 83.8.2.4 Attorneys Employed by or Associated with Organized Legal Services Programs.

An attorney who is employed by or associated with an organized legal services program (which is sponsored, approved or recognized by the local county bar association or is duly authorized by Pennsylvania Legal Services Center, Inc., and which provides legal assistance to indigents in civil matters) and is a member of the bar of the highest court in any state (including territories and the District of Columbia) shall be admitted to practice before this court in all cases in which the attorney is associated with the organized legal services program. Admission to practice under this section shall cease to be effective whenever the attorney is no longer associated with such program. Within twenty ~~(20)~~ **one (21)** days after termination of an attorney's association, a statement to that effect shall be filed with the clerk of the court by a representative of the legal services program. In no event shall admission to practice under this section remain in effect longer than two and one-half (2-1/2) years without being renewed in accordance with the applicable procedures.

LR 83.10.4 Subpoena Requirement.

No trial shall be continued on account of the absence of any witness unless a subpoena for the attendance of such witness has been served at least ~~five (5)~~ **seven (7)** days prior to the date set for trial. This rule shall not dispense with the obligation to take the depositions of any witness where the party or counsel requiring such attendance knows that such witness intends to be absent from the district at the time of trial, or where such witness is not subject to subpoena within this jurisdiction.

LR 83.30.4 Transmittal of Record to Other Courts.

Whenever it appears that any person convicted of any crime or disbarred or suspended or censured or disbarred on consent by this court is admitted to practice law in any other jurisdiction or before any other court, the clerk of this court shall, within ~~ten (10)~~ **fourteen (14)** days of that conviction, disbarment, suspension, censure, or disbarment on consent, transmit to the disciplinary authority in such other jurisdiction, or for such other court, a certificate of the conviction or a certified or exemplified copy of the judgment or order of disbarment, suspension, censure, or disbarment on consent, as well as the last known office and residence addresses of the defendant or respondent.

LR 83.40.2 Summons and Complaint.

The plaintiff shall cause the summons and complaint to be served upon the defendant in the manner specified by Fed.R.Civ.P.4(l) within ~~ten (10)~~ **fourteen (14)** days of the date of filing the complaint with the Clerk of Court.

LR 83.40.6 Reply Brief.

Plaintiff may file, and serve upon defendant, a brief in reply to the brief of defendant within ~~ten (10)~~ **fourteen (14)** days of the filing of defendant's brief.

LCrR 12.1 Pretrial Motions: Duty To Address Speedy Trial Act Excludable Time Implications.

(a) A motion for a continuance of trial and any other pretrial motion filed after

arraignment, whether by the government or the defendant, shall include:

- (1) a statement of whether or not any delay occasioned by the making, hearing or granting of that motion will constitute, in whole or in part, excludable time as defined by 18 U.S.C. § 3161(h), and, if so, a statement or estimation of the number of days to be excluded or a statement describing how excludable time should be determined by reference to a specified future event; and
 - (2) a proposed form of order that, if adopted, will state fully and with particularity the reasons for granting the motion and that states with particularity the proposed findings of the court as to excludable time.
- (b) A party opposing a motion shall file, with the responsive brief to the substance of the motion, its agreement with or opposition to the statements or estimations of the moving party made pursuant to subsection (a).
- (c) Briefs in support of and in opposition to a motion for a continuance of trial shall be filed as follows:
- (1) A party filing a motion for a continuance of trial shall file a supporting brief at the time the motion is filed. A brief shall not be required in support of a motion for a continuance trial if the reasons for the request, specifically the grounds in support of a finding that the ends of justice served by the granting of a continuance outweigh the best interests of the public and the defendant in a speedy trial, are fully stated in the motion.
 - (2) A party opposing a motion for a continuance of trial shall file a brief in opposition to the motion within ~~five (5)~~ **seven (7)** days after service of the motion. No further briefs may be filed without leave of court.
 - (3) A party who does not file a brief in opposition to a motion shall be deemed not to oppose the motion.
- (d) This rule shall not apply to any motion to be heard *ex parte*.

LCrR 58.1 Magistrate Judges, Appeal from Judgments in Misdemeanor Cases - 18 U.S.C. § 3402.

An appeal from a judgment of conviction by a United States Magistrate Judge may be taken to a judge of the district court in accordance with Rule 58 of the Federal Rules of Criminal Procedure. The appellant shall, within ~~fifteen (15)~~ **fourteen (14)** days of the date of filing of the appeal, serve and submit a brief. The United States Attorney shall serve and submit a brief within ~~fifteen (15)~~ **fourteen (14)** days after receipt of a copy of the appellant's brief. The appellant may serve and submit a reply brief within ~~five (5)~~ **seven (7)** days after receipt of the appellee's brief. The appeal shall be considered and disposed of on the briefs without hearing or oral argument unless the judge to whom the appeal is assigned specifically directs otherwise upon an application for such hearing or argument by one or both of the parties. Any appellant who fails to comply with this rule shall be deemed to have withdrawn the appeal. If the United States Attorney in any such appeal fails to comply with this rule, it shall be deemed that the United States Attorney does not oppose the appeal.

APPENDIX A

Attorneys for Plaintiff

Attorneys for Defendant

UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF PENNSYLVANIA

) CASE NO.
)
)
)
)
) JUDGE _____
)
)
)
)

JOINT CASE MANAGEMENT PLAN

Instructions: In many cases there will be more parties in the action than there are spaces provided in this form. Each party shall provide all requested information. If the space on this form is not sufficient, the form should be retyped or additional pages attached.

No party may submit a separate Case Management Plan. Disagreements among parties with respect to any of the matters below shall be set forth in the appropriate section.

Having complied with the meet and confer requirements set forth in the LOCAL RULES, or with any orders specifically modifying their application in the above-captioned matter, the parties hereby submit the following Joint Case Management Plan.

1. Principal Issues

1.10 Separately for each party, please give a statement summarizing this case:

By plaintiff(s):

By defendant(s):

1.2 The principal ~~factual issues that~~ **facts** the **parties** dispute are **as follows**:

~~1.11~~

~~1.12~~

~~1.13~~

agree upon are **as follows**:

~~1.20~~

~~1.21~~

~~1.22~~

1.30 The principal legal issues that the parties dispute are **as follows**:

~~1.31~~

~~1.32~~

~~1.33~~

agree upon are **as follows**:

~~1.40~~

~~1.41~~

~~1.42~~

~~1.50~~⁴ Identify any unresolved issues as to service of process, personal jurisdiction, subject matter jurisdiction, or venue:

~~1.60~~⁵ Identify any named parties that have not yet been served:

~~1.70~~⁶ Identify any additional parties that:

plaintiff(s) intends to join:

defendant(s) intends to join:

~~1.80~~⁷ Identify any additional claims that:

plaintiff(s) intends to add:

defendant(s) intends to add:

~~4~~².0 Disclosures

The undersigned counsel certify that they have made the initial disclosures required by Federal Rule of Civil Procedure 26(a)(1) or that they will do so within the time provided by that rule.

~~4~~².100 Separately for each party, list by name and title/position each person whose identity has been disclosed.

~~4~~².101 Disclosed by _____:

Name

Title/Position

~~4~~².102 _____

4.103 _____

4.104 _____

4.105 _____

4.151 Disclosed by _____:

<u>Name</u>	<u>Title/Position</u>
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4.152 _____	_____
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4.153 _____	_____
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4.154 _____	_____
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4.155 _____	_____
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~~4.200 Separately for each party, describe by categories the documents that have been disclosed or produced through formal discovery, indicating which categories relate (even if not exclusively) to damages:~~

~~4.201 Categories of documents disclosed by _____:~~

~~4.202 _____~~

~~4.203 _____~~

~~4.204 _____~~

~~4.205 _____~~

~~4.251 Categories of documents disclosed by _____:~~

~~4.252 _____~~

~~4.253 _____~~

~~4.254 _____~~

~~4.255 _____~~

~~4.300 Additional Documents Disclosures: Separately for each party, describe each additional category of documents that will be disclosed without imposing on other counsel the burden of serving a formal request for production of documents:~~

~~4.301 Additional categories of documents _____ will disclose:

(party)~~

~~4.302 _____
_____~~

~~4.303 _____
_____~~

~~4.304 _____
_____~~

~~4.351 Additional categories of documents _____ will disclose:

(party)~~

~~4.352 _____
_____~~

~~4.353 _____
_____~~

~~4.354 _____
_____~~

~~4.400 Separately for each party who claims an entitlement to damages or an offset,
set forth the computation of the damages or of the offset:~~

~~4.401 plaintiff's calculation of damages:~~

~~4.402 defendant's calculation of offset:~~

~~4.403 counter claimant/third party claimant's calculation of damages:~~

53.0 Early Motions

Identify any motion(s) whose early resolution would likely have a significant effect either on the scope of discovery or other aspects of the litigation:

Nature of Motion

Moving Party

Anticipated Filing Date

64.0 Discovery

~~64.100~~ Briefly describe any discovery that has been completed or is in progress:

By plaintiff(s):

By defendant(s):

6.4.200 Describe any discovery that all parties agree should be conducted, indicating for each discovery undertaking its purpose or what kinds of information will be developed through it (e.g., "plaintiff will depose Mr. Jones, defendant's controller, to learn what defendant's revenue recognition policies were and how they were applied to the kinds of contracts in this case"):

64.300 Describe any discovery that one or more parties want(s) to conduct but to which another party objects, indicating for each such discovery undertaking its purpose or what kinds of information would be developed through it:

64.400 Identify any subject area limitations on discovery that one or more parties would like imposed, at the first stage of or throughout the litigation:

64.500 For each of the following discovery tools, recommend the per-party or per-side limitation (specify a number) that should be fixed, subject to later modification by stipulation or court order on an appropriate showing (where the parties cannot agree, set forth separately the limits recommended by plaintiff(s) and by defendant(s)):

64.50.1 depositions (excluding experts) to be taken by:

plaintiff(s): _____ defendant(s): _____

64.50.2 interrogatories to be served by:

plaintiff(s): _____ defendant(s): _____

64.50.3 document production requests to be served by:

plaintiff(s): _____ defendant(s): _____

64.50.4 requests for admission to be served by:

plaintiff(s): _____

defendant(s): _____

~~64.600~~ **Discovery of Electronically Stored Information**

☐ Counsel certify that they have conferred about the matters addressed in M.D. Pa LR 26.1 and that they are in agreement about how those matters will be addressed in discovery.

☐ Counsel certify that they have conferred about the matters addressed in M.D. Pa. LR 26.1 and that they are in agreement about how those matters will be addressed in discovery with the following exceptions:

75.0 Protective Order

~~75.1~~ If entry of a protective order is sought, attach to this statement a copy of the proposed order. **Include a statement justifying the propriety of such a protective order under existing Third Circuit precedent.**

~~75.2~~ If there is a dispute about whether a protective order should be entered, or about certain terms of the proposed order, briefly summarize each party's position below:

96.0 Scheduling

~~96.41~~ Final date for joining additional parties:

_____ Plaintiff(s)

_____ Defendants(s)

~~96.52~~ Final date for amending pleadings:

_____ Plaintiff(s)

_____ Defendants(s)

~~6.3~~ All **fact** discovery commenced in time to be completed by:

~~96.64~~ All potentially dispositive motions should be filed by: _____

~~66.7005~~ Reports from retained experts due:

from plaintiff(s) by _____

from defendant(s) by _____

~~6.6.006~~ 6.6.006 Supplementations due _____

6.7 All expert discovery commenced in time to be completed by _____

96.18 This case may be appropriate for trial in approximately:

___ 240 Days from the filing of the action in this court

___ 365 Days from the filing of the action in this court

___ Days from the filing of the action in this court

96.39 Suggested Date for the final Pretrial Conference:

_____ (month/year)

96.210 Trial

6.10.1 Suggested Date for Trial:

_____ (month/year)

87.0 Certification of Settlement Authority (All Parties Shall Complete the Certification)

I hereby certify that the following individual(s) have settlement authority.

Name

Title

Address

() ___ - ___ Daytime Telephone

Name

Title

Address

() ____ - ____ Daytime Telephone

28.0 Alternative Dispute Resolution ("ADR")

- 28.10 Identify any ADR procedure to which this case already has been assigned or which the parties have agreed to use.

ADR procedure _____

Date ADR to be commenced _____

Date ADR to be completed _____

- 28.20 If the parties have been unable to agree on an ADR procedure, but one or more parties believes that the case is appropriate for such a procedure, identify the party or parties that recommend ADR and the specific ADR process recommended:

- 28.30 If all parties share the view that no ADR procedure should be used in this case, set forth the basis for that view:

39.0 Consent to Jurisdiction by a Magistrate Judge

Indicate whether all parties agree, pursuant to 28 U.S.C. § 636(c)(1), to have a magistrate judge preside as the judge of the case with appeal lying to the United States Court of Appeals for the Third Circuit:

All parties agree to jurisdiction by a magistrate judge of this court: __ Y __ N.

If parties agree to proceed before a magistrate judge, please indicate below which location is desired for the proceedings:

____ Scranton/~~Wilkes-Barre~~
____ ~~Wilkes-Barre~~
____ Harrisburg

10.0 Other Matters

Make any other suggestions for the case development process, settlement, or trial that may be useful or necessary to the efficient and just resolution of the dispute.

11.0 Identification of Counsel

Counsel shall be registered users of the court's Electronic Case Files System (ECF) and shall file documents electronically in accordance with the Local Rules of Court and the Standing Order RE: Electronic Case Filing Policies and Procedures. Electronic filing is required unless good cause is shown to the Chief Judge why counsel cannot comply with this policy. Any request for waiver of electronic filing must be filed with the Clerk's Office prior to the case management conference. The Chief Judge may grant or deny such request.

Identify by name, address, and telephone number lead counsel for each party. Also please indicate ECF User status below.

Dated:

- _____
Attorney(s) for Plaintiff(s)
☐ ECF User(s)
☐ Waiver requested (as separate document)
☐ Fed.R.Civ.P.7.1 (statement filed if necessary)*

Dated:

- _____
Attorneys(s) for Defendant(s)
☐ ECF User(s)
☐ Waiver requested (as separate document)
☐ Fed.R.Civ.P.7.1 (statement filed if necessary)*

* Fed.R.Civ.P.7.1 requires a nongovernmental corporate party to file a statement with the initial pleading, first entry of appearance, etc., that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock, or state there is no such corporation.